

REMARKS

Claims 33-35 were pending in this Application. Claims 36-38 are newly added herein. No claims have been canceled. Hence, claims 33-38 are now pending in this Application.

Claims 34 and 35 were amended to correct erroneous dependencies and to align them with their base claim. Specifically, the reference to claim 30 was replaced with a reference to claim 33, and the “cast” housing body was changed to “seamless” housing body.

Claims 36-38 were added to more fully claim the invention. Support for the new claims may be found throughout the Application in general and at least at page 7, lines 5-31, and Figures 4-6.

Marked-up changes to the claims are attached herewith in Appendix A. A clean copy of the currently pending claims is attached herewith in Appendix B.

No new matter has been added.

Rejection of the Claims

Claims 33 and 35 were rejected under 35 U.S.C. 102(b) as being anticipated by Hinton et al. (US. Patent No. 4,193,353). In making the rejection, the Examiner states the following:

Hinton et al. '353 teaches all the limitations of the above claims including a modular vault (60) with a seamless housing body (62) with front, rear, side, roof and floor walls forming an unitarily single piece, having a door opening (64) in the front wall, more than two side walls or double walls (column 6, lines 15-18), a door frame (78), a door (82), and the vault is fire resistant and burglary proof (see Abstract).

Claims 33-35 were rejected under 35 U.S.C. 103(a) as being unpatentable over Merritt (U.S. Patent No. 4,455,801) in view of Speer (U.S. Patent No. 5,439,817). In making the rejection, the Examiner states the following:

Merritt '801 teaches all the limitations of the above claims except the use of hooks. Merritt teaches a modular vault (10) with a seamless housing body (column 2, lines 34-38) with front, rear and side walls (14), roof (18), and floor walls (20) forming an unitarily single piece, having a door opening in the front wall, more than two side walls (14, see Figure 1), a door frame (28), a door (26), and the vault is fire resistant and burglary proof (see Abstract). Speer teaches the use of hooks to hoist an enclosed container. It would have been obvious for one skilled in the art at the time the invention was made to modify the vault as taught by Merritt to provide integrated hooks to hoist the vault into a building onto office floors above the basement as taught by Merritt.

These rejections are respectfully traversed.

The Claimed Invention

The present invention, as recited in independent claim 33, is directed to a modular vault. The modular vault comprises a seamless housing body that is unitarily formed as a single piece. The seamless housing body has portions that define a front wall, a rear wall, two side walls, a roof, and a floor. The front wall has a door opening therethrough. A doorframe of the modular vault is positionable in the door opening, and a door of the modular vault is mountable in the doorframe. The door is preferably fire resistant and burglary proof. See, e.g., page 7, lines 5-17; Figure 4.

Independent claim 36 is directed to a modular walk-in vault and recites similar limitations.

An advantage of the claimed invention is the housing body is unitarily formed as a single piece. As such, the modular vault can be entirely prefabricated at a remote facility, then transported to a desired location for installation. To install, the modular vault can be conveniently dropped into place without any additional assembly. Thus, the expense and difficulty associated with constructing a vault in-place are avoided. Another advantage is that

the housing body is seamless. The seamless housing body renders the modular vault vapor-tight and, therefore, better able to protect the contents of the vault from external environmental influences. See, e.g., page 7, lines 11-31; Figures 5-6.

Arguments in Support of the Claims

To anticipate a claim, a prior art reference must teach each and every element of the claim. See, e.g., *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 2 USPQ2d 1051 (Fed. Cir. 1987) (“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Id.* at 631.) With regard to claim 33, Applicants respectfully submit that neither Hinton et al. nor any other art of record (taken alone or in combination) teaches each and every element of the claim.

The Examiner contends that Hinton et al. teaches a modular vault (60) having, among other things, a door opening (64) in the front wall. However, a close review of Hinton et al. reveals that the so-called door opening (64) is not located in any of the walls, but is instead located on top of the box (60). See, e.g., Figure 9. The box (60) itself is installed under the floor of a house or other structure such that the top of the box (60) is even with or slightly recessed into the floor. See, e.g., col. 5, lines 10-13, and Figure 11.

Even if the Examiner were to reorient the box so that the top of the box (60) becomes a “wall,” the opening (64) is not located **therethrough** with respect to the “wall.” In fact, from the perspective of a person of ordinary skill in the art, the opening (64) takes up the entire “wall” so that there is actually no wall there at all. Perhaps the cover (82) may be considered to be the “wall,” but in that case, there would be no opening through the cover/wall.

As for the combination of Merritt and Speer, Applicants respectfully submit that even assuming there is motivation to combine the two references, and that they may be combined in some meaningful manner, the resulting combination would not produce the claimed invention. The Examiner contends that Merritt teaches a modular vault having a seamless housing body. However, a close reading of Merritt reveals that what this reference appears to teach are light weight panels which may be assembled to form an airtight and vaporproof joint, not a **seamless** one. See, e.g., col. 2, lines 34-38. There is a large distinction between seamless (i.e., no seams) and airtight/vaporproof seams (i.e., tightly fitting seams). Indeed, this position is supported by the text cited by the Examiner, which states that the panel **edges** are provided with tongue and groove edges. Since the panels have edges, it necessarily follows that there will be seams when the panels are assembled.

Accordingly, for at least the reasons stated above, withdrawal of the rejections against claim 33 is respectfully requested. Independent claim 36 is similar to claim 33 and is therefore allowable for at least the same reasons.

As for the dependent claims 34-35 and 37-38, although they may recite independently allowable subject matter, these claims depend from claims 33 and 36, respectively, and are therefore allowable for at least the same reasons. Accordingly, withdrawal of the rejection against the dependent claims is also respectfully requested.

Double Patenting

Claims 33-35 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 6,003,271. In making the rejection, the Examiner states that although the conflicting claims are not identical,

they are not patentably distinct from each other because both teach prefabricated enclosed seamless vaults that are fireproof and burglarproof.

In accordance with 37 C.F.R. 1.130(b), Applicants submit herewith a Terminal Disclaimer in compliance with 37 C.F.R. 1.321(c) to obviate the rejection under the judicially created doctrine of obviousness-type double patenting. Accordingly, withdrawal of this rejection is respectfully requested.

CONCLUSION

The rejections raised by the Examiner have been addressed, and Applicants submit that the claims are now in condition for allowance, which action is respectfully requested. If any questions or issues remain and the resolution of which the Examiner feels will be advanced by a conference with the Applicants' attorney, the Examiner is invited to contact the attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge any fee which may be required, or credit any overpayment, to Deposit Account No. 10-0447, Reference No. 41241-6USD1 (DGN).

Respectfully submitted,

MARK L. BOYER ET AL.

Date: 12/18/02
Jenkins & Gilchrist
A Professional Corporation
1100 Louisiana, Suite 1800
Houston, Texas 77002
Telephone No.: (713) 951-3354
Telecopy No.: (713) 951-3314

By: Daniel G. Nguyen
Daniel G. Nguyen
Reg. No.: 42,933

APPENDIX A

MARKED-UP CHANGES TO THE CLAIMS

34. (Amended) A modular vault of claim [30] 33, wherein a plurality of hooks are integrally formed into the [cast] seamless housing body for facilitating hoisting the [cast] seamless housing body.

35. (Amended) A modular vault of claim [30] 33, wherein there are more than two side walls.

36. (New) A modular walk-in vault comprising:
a seamless housing body unitarily formed as a single piece, said seamless housing body having portions defining a front wall having a door opening therethrough, a rear wall, two side walls, a roof and a floor;
a door frame positionable in the door opening; and
a door mountable in the door frame whereby said vault is fire resistant and burglary proof.

37. (New) A modular walk-in vault of claim 36, wherein a plurality of hooks are integrally formed into the seamless housing body for facilitating hoisting the seamless housing body.

38. (New) A modular walk-in vault of claim 36, wherein there are more than two side walls.